



Avoid Fair Housing Pitfalls

by Beth Rosen-Prinz

Dante Lemons expected to live peacefully with his family in his apartment in Oakland. Much to his surprise, he was repeatedly subjected to harassment and racial slurs by his apartment manager, Marlene O'Neill, and after six months was forced to leave his apartment because of the intolerable living conditions the manager's behavior created. Lemons filed a complaint with California's civil rights agency, the California Department of Fair Employment and Housing, and, after an administrative hearing, was awarded over \$25,000 in damages. In his testimony, Lemons, who is African American, stated that he was told he could not sit on the steps outside his apartment because by sitting there he was turning the apartment into a ghetto. The manager repeatedly used racial slurs when addressing Lemons, accused him of stealing and told him that other tenants were afraid of him. The last straw occurred when, without provocation, the manager kicked Lemons's door while screaming that she was "going to get you guys out of here."

Race Discrimination

Although race discrimination has long been prohibited under both California and federal fair housing laws, a significant number of complaints continue to be filed with government agencies alleging discriminatory housing practices based on race or national origin/ancestry. In California, for example, nearly one-third of the complaints filed in 2007 identified race or national origin/ancestry as the reason for alleged discrimination. Unlike the Lemons case, however, discrimination is often hidden, made visible only by comparing the experiences of persons of different races.

Earlier this year, the DFEH filed a civil action against the owners of an apartment building in Palo

Alto, accusing the owners of refusing to rent to African American males. While the African American potential tenant in this case was not subjected to racial slurs, his telephone calls about an available rental went unanswered. Subsequent testing by a local fair housing group revealed a pattern of racial discrimination in which African American male inquirers were ignored, while Caucasian inquirers received responses and, in some instances, were encouraged to apply for the rental. In another case brought by the DFEH, rental applicants from India were steered to certain units of an apartment complex in Sunnyvale. According to a former manager, the owners directed managers to segregate tenants of Indian national origin so the smells of Indian cooking would not "pollute" the more expensive cathedral ceiling units.

Both of these cases were resolved prior to trial. The settlements included significant monetary amounts (\$25,000 in the Palo Alto case and \$100,000 in the Sunnyvale case), as well as requirements for the housing providers to attend fair housing training and develop nondiscriminatory policies and procedures.

Reasonable Accommodation

It is a rare landlord who does not know that discrimination based on race or national origin is prohibited. However, landlords seem to know less about disability and familial status discrimination—equally prohibited by law—which together with race/national origin are the most common types of housing discrimination complaints filed with government agencies. Many housing providers do not understand their legal obligations to provide reasonable accommodation to persons with disabilities and, as a result, find themselves accused of discrimination based on their refusal to make changes in rules, policies or procedures.

Douglas Vose was a virtual prisoner in his San Diego condominium when his homeowners association re-

moved his ramp from his handicapped accessible parking space and warned him that his van would be towed if he parked in the space without a valid permit. Vose, a wheelchair user, had recently moved to California and was waiting for the state to issue him a new permit to replace his expired Florida permit. He requested an accommodation in the form of the return of his wooden ramp or the installation of a permanent ramp or curb cut, widening of the handicapped space, and assignment of the space to him. DFEH filed a civil complaint based on a denial of reasonable accommodation and reached a pre-trial settlement, which included \$150,000 for Vose and the association's agreement to develop a policy to address requests for reasonable accommodation.

Refusal to allow an assistive animal in a no-pet building is also frequently the subject of complaints filed with the DFEH. Peter Cirillo had been a tenant in an apartment complex in Beaumont for more than 20 years. A military veteran with disabilities, Cirillo had a dog that provided emotional support and assisted him in coping with his daily living activities. Cirillo's landlord told him he could no longer keep the dog and, despite his request for reasonable accommodation, Cirillo was evicted. In a pre-hearing settlement, he received \$70,000, and the landlord and his employees agreed to participate in fair housing training.

Although it is generally understood by landlords that families with children cannot be refused housing, it is not uncommon for housing providers to include in their house rules limitations on children's activities, such as curfews or prohibitions on playing on the premises. While owners and managers have the right to develop reasonable house rules, limitations that single out children or restrict their activities may have the effect of denying equal rental terms and conditions to families with children and thereby violate fair housing laws.

An expensive lesson on this form of familial status discrimination was learned by the owners of Plaza Court

Apartments in Stanton, who ended up paying \$618,000 in a pre-trial settlement of a civil suit filed by the DFEH. The complex's rules prohibited children from being outside unsupervised or using common facilities after 6 p.m., and families were repeatedly fined or threatened with eviction for rule violations. A class action complaint was filed to ensure that remedies would be available to all former and current tenants who had been affected by the overly restrictive rules in the 104-unit complex.

What can housing providers do to avoid these pitfalls? Most importantly, they should ensure that they and all their employees are familiar with their obligations under federal and state fair housing laws, and practice these principles in their day-to-day interactions with applicants and residents.

Additionally, rental documents such as applications, rental agreements and house rules should be reviewed on an annual basis to ensure compliance with fair housing laws. Regular partici-

pation in fair housing training offered by a nonprofit fair housing group or an industry professional is an excellent way to obtain up-to-date information on the rights and responsibilities of landlords and tenants.

As California's civil rights agency, the DFEH is responsible for enforcing laws that prohibit discrimination in housing. In addition to race, national origin, ancestry, disability and familial status, California fair housing laws prohibit discrimination based on color, religion, sex, sexual orientation, age, marital status, familial status, disability and source of income.

For more information contact DFEH at www.dfeh.ca.gov.

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